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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,527	11/19/2001	Alan F Savicki	492.188	6088
27023	7590	03/14/2006	EXAMINER	
THE GLAD PRODUCTS COMPANY 1221 BROADWAY #2344 OAKLAND, CA 94623-1305			MENEZES, MARCUS	
			ART UNIT	PAPER NUMBER
			3677	
DATE MAILED: 03/14/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/979,527	SAVICKI, ALAN F	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marcus Menezes	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-92 is/are pending in the application.
- 4a) Of the above claim(s) 88-92 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-21, 24-28, 30-46, 48-50, 52, 54-57, 59-75, 77-79, 82-85 and 87 is/are rejected.
- 7) ☒ Claim(s) 18, 22, 23, 29, 47, 51, 53, 58, 76, 80, 81 and 86 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-87, drawn to a closure device, classified in class 24.
  - II. Claims 88-92, drawn to a method of using a closure device, classified in class 493.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, the method for preventing removal of a slider from fastening strips can be accomplished by other ways, such as by attaching fastening means on the slider and anchoring said fastening means onto either the fastener strips on a point near said strips.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Examiner called Mr. Feix on 2/23/06 for a verbal election on the restriction above and Applicant elected Group I, the closure device, without traverse.

Claims 88-92 are withdrawn from further consideration, as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

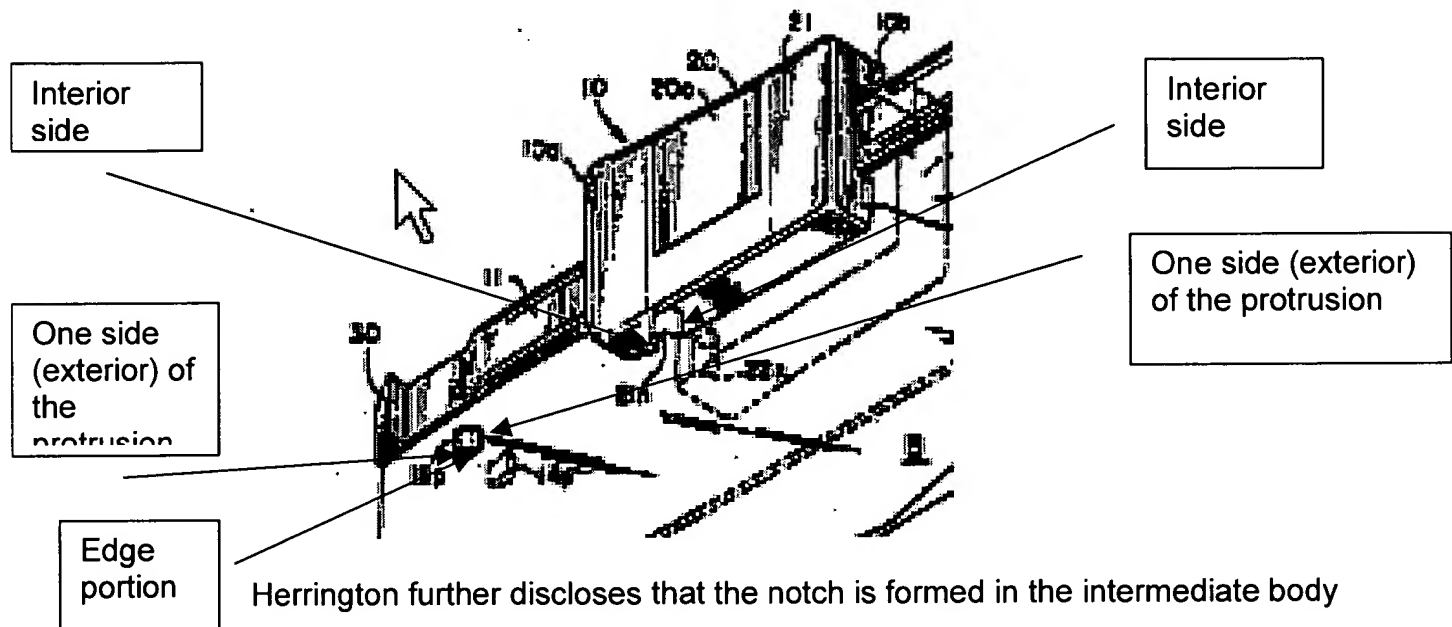
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,3-8,10,11,13,14,16,17,19-21,25-28, 30, 32-37, 39,40,42,43,45,46,48, 50,54-57,59,61-66,68,69,71,72,74,75,77-79,83-85 and 87 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Herrington et al. (U.S. Patent No. 5,189,764, hereinafter "Herrington").

Herrington discloses a closure device comprising interlocking fastening strips (14,15) having first and second ends; and a slider member (10) movably installed upon the interlocking fastening strips, the slider member facilitating the occlusion of the interlocking fastening strips when moved towards the first end thereof, the slider member having a pair of spaced-apart side walls (21,22) which are positioned on opposite sides of the interlocking fastening strips, an intermediate body portion (20) between the side walls which is positioned upon the interlocking fastening strips, and two notches (21n,22n) formed therein which is adapted to engage a cooperating protrusion formed on one of the interlocking fastening strips at the first end thereof to obstruct movement of the slider member beyond said first end. (See col. 4, lines 32-36). Herrington further discloses a pair of complementary sheets (12,13) wherein the first fastening strip is disposed along an edge portion of one sheet and a second fastening strip is disposed along an edge portion of the other sheet.

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Herrington discloses that the protrusion includes opposed exterior sides which are adapted to become wedged between the opposed interior sides of the notch to restrict disengagement of the slider member from the interlocking fastener strip when the slider member is moved toward the first end thereof.



Herrington further discloses that the notch is formed in the intermediate body portion, the notch has a generally V-shaped configuration and the generally V-shaped notch has opposed interior sides that are substantially planar. Further, Herrington discloses the opposed interior sides are rectangular in configuration and converge along a generally vertical internal corner. (See Fig.2)

Herrington further discloses that the notch of the slider has a partially curved configuration with a pair of opposed interior sides and an intermediate arcuate portion there-between.

Herrington discloses a notch that has a generally rectangular configuration (See Fig. 2), with a notch that has a pair of opposed interior sides and an intermediate portion

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there-between that are substantially planar and that converge along substantially vertical external corners.

Herrington further discloses that the protrusion has substantially planar surfaces, the protrusion has a pair of opposed exterior sides and an edge portion there-between. Further, Herrington discloses that the opposed exterior sides of the protrusion are generally triangular in configuration and are generally wedge-shaped. Additionally, the protrusion has a pair of opposed exterior sides and an edge portion there-between and that said sides flare outwardly with respect to each other and the strip.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2,9,12,15,24,31,38,41,44,53,60,67,70,73 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrington.

Herrington discloses a second notch, however fails to place it at the second end of the fastening strips. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the second notch at the second end of the interlocking fastener strips, since it has been held that mere duplication of parts of the essential working parts of a device involves only routine skill in the art.

Herrington discloses opposed interior sides of the notch that are not triangular in shape, but that do converge along an inclined internal corner. Further, though Herrington discloses opposed interior sides on the notch, Herrington does not disclose that the sides are substantially parallel with respect to each other. Additionally, though Herrington discloses opposed exterior sides of the protrusion, Herrington does not disclose that the slides are substantially parallel with respect to each other.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included opposed interior sides of the notch that were triangular in shape since Herrington does not limit the shapes the notches (21n,22n), rather Herrington only requires that the notches and protrusions correspond in shape in order to facilitate with the locking of the slider in position. (See col. 4, lines 15-17). Further, it has been held that a mere change in shape or form is generally within the level of ordinary skill in the art; thus the change in shape of the notch and protrusions are obvious.

#### ***Allowable Subject Matter***

7. Claims 18,22,23,29,47,51,53,58,76,80,81 and 86 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,306,071

US Patent No. 5,924,173

US Patent No. 5,067,208

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US Patent No. 5,405,478


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marcus Menezes  
Examiner  
Art Unit 3677

MM

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**